

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**DAN DURAN, et al.,  
Plaintiffs,**

**v.**

**THOMAS DART, Sheriff of  
Cook County, et al.,  
Defendants.**

**No. 74 C 2949**

THE HONORABLE  
VIRGINIA M. KENDALL

**PRESIDENT TODD H. STROGER AND THE COOK COUNTY  
BOARD OF COMMISSIONERS' STATUS REPORT**

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NOW COME the Defendants, TODD H. STROGER, PRESIDENT OF THE COOK COUNTY BOARD OF COMMISSIONERS and the COOK COUNTY BOARD OF COMMISSIONERS, by their attorney RICHARD A. DEVINE, State's Attorney of Cook County, through his assistant, Donald J. Pechous, and present their Status Report and Response to the John Howard Association's Status Report of April 9, 2007.

**INTRODUCTION**

Todd H. Stroger, President of the Cook County Board of Commissioners and the Cook County Board of Commissioners ("the County"), present this Status Report, which documents their continuing efforts toward maintaining full compliance with each of the terms of the Duran Consent Decree, and additionally, respond to the John Howard Association ("JHA") Status Report of April 9, 2007.

The County, through its affiliated departments and agencies, and in

collaboration with Sheriff Thomas Dart, continues to demonstrate and maintain its dedication to constitutionally sound conditions of pre-trial confinement. Since 1982, when the Consent Decree was entered, the County has constantly maintained and improved conditions of confinement at the Cook County Department of Corrections (“CCDOC”) complex.

## **POPULATION MANAGEMENT AND CONTROL**

### **LENGTH OF STAY**

As recognized by the Court and the parties, one avenue to limit CCDOC overcrowding is to reduce the length of stay (“LOS”) of detainees. The County has no direct control over detainee LOS. Nonetheless, the County, with impetus provided by its Judicial Advisory Council, commissioned and funded a study led by Professor Joseph Trotter of American University. *American University, Review of Cook County Felony Case Process and Its Impact on the Jail Population* (9/26/05) (“AU Study”). The AU Study was intended to improve the efficiency of the Cook County criminal justice system with the anticipated benefit of reducing detainee LOS. The AU Study now appears to be money well-spent.

As reported extensively in the County’s 2006 Status Report, Professor Trotter’s team conducted a thorough analysis of the Cook County criminal justice system and made recommendations for the more efficient disposition of criminal

cases. The AU Study demonstrates the County's proactive approach to CCDOC challenges.

Even the best study is worthless unless its recommendations are implemented. Fortunately, the Honorable Paul P. Biebel, Presiding Judge of the Cook County Criminal Courts, has put into practice many of the AU Study's recommendations. The AU Study, coupled with Judge Biebel's efforts, is now bearing fruit. As reported by JHA, LOS has been reduced by 5% since the last reporting period. JHA April 9, 2007 Status Report, pg. 19.

One of the recommendations of the AU Study was to establish a Differentiated Case Management system ("DCM"). As discussed in more detail in the County's 2006 Status Report, DCM categorizes the various types of cases handled, which can then constitute case processing classes (or tracks). DCM then identifies the nature of events, timeframes, and judicial supervision appropriate for the just disposition of cases in each track. AU Study, p. 43.

Judge Biebel and his staff report substantial progress on DCM during the last year, as reflected by JHA's LOS figures. As part of the continuing implementation of the AU Study recommendations and DCM, an 8 week study is presently underway. The study focuses on case continuances in an attempt to shorten the time from arraignment to disposition as much as possible.

JHA raises concerns over whether budget cuts to the offices of the State's Attorney and Public Defender will increase case disposition times. State's Attorney Devine is committed to prosecuting all pending cases and will do what is necessary to

ensure that all criminal cases are timely prosecuted. No serious criminal cases will be dismissed based on budgetary constraints imposed during this fiscal year.

### **ALTERNATIVE RELEASE MECHANISMS**

Since the parties' last Status Reports, Sheriff Dart has raised an issue regarding the Sheriff's power to authorize electronic monitoring ("EM"). See Sheriff's Petition for Clarification, January 26, 2007, R. 943. The Sheriff, in his petition, submitted that the current procedure for placing detainees on EM is unacceptable because guidelines for establishing detainee eligibility are left solely to the Sheriff's discretion. *Id.* at p. 2. The Sheriff maintains that he lacks information and input from bond court judges, the State's Attorney's Office, and Pretrial Services, which is necessary to make informed decisions as to EM eligibility. *Id.* Moreover, the Sheriff maintains that determining conditions of bail is a judicial function, and not within his authority. *Id.* at pp. 3-4. Sheriff Dart's concerns are well founded.

The Law Enforcement Committee of the Cook County Board of Commissioners held a hearing on June 6, 2007 where Sheriff Dart, the Public Defender, and a representative of State's Attorney Devine appeared and offered testimony on the current status of the Sheriff's EM program and the need for input from the Chief Judge. The County hopes that the Sheriff is able to resolve these concerns with the judiciary expeditiously.

The County takes issue with JHA's conclusion that budget cuts resulted in

reductions in the EM program. JHA initially, correctly, reports that EM participation was reduced as a result of the Sheriff changing EM eligibility criteria. JHA April 9, 2007 Status Report, pg. 40. The President and Board of Commissioners have consistently supported the Sheriff's use of alternative release mechanisms for qualified individuals. The County demonstrated this support by appropriating significant funds for expansion of EM. In 2005, 25 additional investigators and 9 civilian staff were added to expand EM. JHA April 9, 2007 Status Report, pg. 41. The FY 2006 budget allocated funds for the purchase of 350 additional EM units, vehicles, and radio equipment for use by EM.

As an apparent result of the Sheriff's more restrictive eligibility criteria, the EM caseload has dropped approximately 45%, from an average of 1,576 in 2005, to an average of 894.7 for the first three months of 2007. JHA April 9, 2007 Status Report, pg. 43, Table 1.11. Despite this evidence, JHA apparently attempts to place blame for the decreased EM caseloads on budget cuts that did not take effect until March 23, 2007. JHA April 9, 2007 Status Report, pg. 41. JHA describes the effects of the March 23, 2007 budget cuts as follows:

As a result of these cuts, CCDCSI administrators informed JHA staff during a visit on March 14, 2007 that they had not admitted new participants into EMP for a period of three weeks. It is also clear, however, that staffing cuts ranging from 10% to 20% in these programs are likely to lead to additional reductions in the caseloads of these release mechanisms, the effects of which should become clear in the next several months. Id.

JHA's report defies logic. Indeed, JHA's own data supports the conclusion that reductions in EM are wholly attributable to the Sheriff's changes in eligibility criteria, rather than a decrease in funding. In fact, JHA documents a 30.9% reduction in EM caseloads during 2006, which was after the County increased EM funding in 2005, and long before budget cuts in 2007. JHA April 9, 2007 Status Report, pg. 43, Table 1.11.

As stated, Sheriff Dart raises legitimate concerns regarding the use of EM. However, it is clear that the reduction in EM caseloads cannot be attributed to decreased funding by the County, as JHA suggests. The County provided additional funding to expand EM in 2005, only to see EM caseloads decrease significantly. Accordingly, the County appropriately reduced funding in 2007. It would be foolish and wasteful to maintain EM funding at previous levels.

## **FACILITIES and ENVIRONMENTAL HEALTH**

The complexity of maintaining an institution the size of the CCDOC cannot be overemphasized. Over the past reporting year, the Office of Capital Planning and Policy ("OCP"), and Department of Facilities Management ("DFM") continue to maintain substantial compliance with the Consent Decree in all areas. President Stroger and the Board of Commissioners continue to devote significant resources to address the array of maintenance-related issues at the enormous CCDOC complex.

OCP and DFM administrators continue with their systematic efforts to



conduct assessments of all relevant facilities. These assessments are then integrated into five-year plans that include provisions for maintenance and capital improvements. Where necessary, five-year plans are appropriately revised.

### **RTU/RCDC Facility**

OCPD Director Bruce Washington is pleased to report that funds have been allocated for a new facility to replace the existing Division VIII Residential Treatment Unit Building ("RTU") and additionally provide a new Receiving, Classification, and Diagnostic Center ("RCDC"). President Stroger and the Board of Commissioners, in budgeting \$38 million for this project, have once again demonstrated responsiveness and a commitment to provide a safe and secure facility. The County anticipates that the new RTU facility will provide significantly improved living conditions and a higher standard of patient care to nearly 500 male inmates with significant medical and/or psychiatric problems.

Similarly, a new RCDC building should solve a myriad of problems posed by the current facility. RCDC is not only the intake facility for a jail that greets over 100,000 new detainees each year, but also handles hundreds of thousands of detainee court movements each year. This major project is scheduled for completion in Fall 2009.

### **Facilities Maintenance-Building Team Initiative**

DFM has developed a new concept for maintenance and repair of CCDOC

detainee living units. The Building Team Initiative (“BTI”) is a pilot program that has provided enormously encouraging, and successful, initial results. A recurring obstacle to maintenance of detainee living units is that many projects require that a living unit be temporarily shut down to accomplish repairs. Concomitantly, DFM administrators recognize overcrowding problems in CCDOC and the need to maintain as much available bedspace as possible. This is particularly true of jail divisions such as Division V, which experiences chronic overcrowding.

BTI is an attempt to maintain the facilities at a high level, while keeping as many detainee living units open and operational as feasible. The BTI concept requires coordination with CCDOC administrators to prioritize repair of living units and to then remove the detainees assigned to a living unit for a minimum of six hours. During that six-hour period, a team of DFM tradesmen descends on a living unit and concentrates their efforts to identify and perform as many maintenance tasks as possible. BTI teams consist of painters, electricians, plumbers, carpenters, laborers, ironworkers and engineers.

As stated, BTI results have been overwhelmingly positive. DFM has seen approximately one hundred work orders generated, and more importantly completed, for each living unit tackled by a BTI team.

Building on the success of the initial program begun in Division V, DFM administrators are planning to soon add Divisions IX and X to BTI. With the

continued cooperation of CCDOC officials, DFM administrators anticipate that every living unit in Divisions V, IX and X will be visited by a BTI team before the end of 2007.

DFM administrators intend to confer with their CCDOC counterparts at the end of the year to analyze the results of BTI and hope to improve and/or extend the concept throughout the CCDOC complex. Proactive programs such as BTI display the ingenuity and forethought of DFM and further demonstrate the commitment of President Stroger and the Board of Commissioners to provide facilities that fully comply with the Decree and are, in all respects, constitutionally sound. DFM administrators continue to recognize the importance of ensuring that every bed in the CCDOC complex is available for detainee use and direct their efforts toward achieving that goal. The following information addresses activity by DFM in each division and other jail facilities as addressed by the JHA.

### **DIVISION I**

The JHA has acknowledged that most portions of the living units and other areas, including exercise areas and law libraries, continue to be well maintained. JHA April 9, 2007 Status Report, pg. 65. JHA correctly notes that some shower areas in the division have received maintenance while others have not. In 2006, a maintenance project to renovate the shower areas was begun. However, CCDOC concerns regarding overcrowding, and an inability to close the living units to perform

the maintenance, caused the project to be temporarily suspended. DFM continues to coordinate with CCDOC administrators to complete this project without significantly affecting jail capacity. DFM administrators hope to resume the project in Division I during the summer of 2007.

## **DIVISION II**

Completion of renovations to Division II, in December of 2005, has resulted in, as JHA describes, "some of the most habitable" accommodations at the jail. JHA April 9, 2007 Status Report, pg. 65. DFM administrators previously acknowledged a mildew problem in the Dorm 4 shower area. In response, DFM installed exhaust fans to improve ventilation. Additionally, an epoxy resin slip-resistant flooring system was installed. While the flooring system appears to be a clear improvement, DFM administrators acknowledge that attempts to improve ventilation have been less than successful. As a result, DFM has requested a ventilation study be conducted so that all ventilation problems can finally be resolved.

## **DIVISION III**

As noted in our last response, DFM completed a project to repair or replace Division III missing/damaged floor and wall tiles in December of 2005. DFM continues to repair damaged tiles through its work order system in an ongoing manner.

## **DIVISION IV**

JHA reports that the living unit renovation project in Division IV has resulted in “significant improvements to living conditions” in the division. JHA April 9, 2007 Status Report, pg. 66. JHA continues to cite chronic temperature control problems in Division IV. Id. DFM believed that the temperature control issues were solved over 3 years ago. A project designed to improve temperature control was completed in April of 2004. This project involved the installation of 20 new steam/chill water coils in Division IV. Evidently, as noted by JHA, the interior water coil project did not completely solve the temperature control problems. Accordingly, a second project, where the rooftop HVAC units were replaced, was completed in 2007. DFM anticipates that this latest corrective action will finally resolve all temperature control problems in this division. DFM continues to closely monitor this situation.

#### **DIVISION V**

DFM is pleased to report that Division V shower area renovations were completed in 2006. Building upon the successful completion of the shower renovation project, DFM has begun a Tier Renovation Initiative (“TRI”) in Division V. The TRI is separate and distinct from the previously described BTI and is targeted largely at plumbing renovations. The repair of plumbing infrastructure presents special challenges in that it generally requires entire living units closed until the project is completed. Inescapably, as with most other renovation projects, DFM must balance project completion with CCDOC concerns over jail population and bedspace. DFM

continues to work with CCDOC to limit disruption. DFM's goal is to be able to complete renovations of one living unit within a two-week span to minimize the impact on the overflow population while the living unit is taken off-line.

### **DIVISION VI**

JHA reports an increase in the number and severity of maintenance problems in recent months in Division VI. JHA April 9, 2007 Status Report, pg. 68. This is a departure from previous reports indicating relatively few major maintenance problems in this division. See JHA May 8, 2006 Status Report, pg. 58. DFM administrators are puzzled by JHA's account. DFM's initial investigation reveals no departure from past practices and that the work-order completion rate in Division VI is nearly identical to the overall work-order completion rate at the CCDOC complex. DFM administrators vow to further investigate and study the maintenance of Division VI, and will take corrective action if necessary.

### **DIVISION VIII**

JHA reports relatively few maintenance problems in the Cermak Health Services (CHS) building. JHA April 9, 2007 Status Report, pg. 69. In regards to the RTU building, DFM continues to address maintenance issues in an ongoing manner.

As described above in regards to Division V, maintenance in Division VIII is often dictated by population and bedspace concerns. Frequently, maintenance must

be deferred because of the effects it has on jail capacity.

### **DIVISION IX**

DFM notes that previous JHA criticism regarding windows in Division IX has been assuaged with the completion of a major project that replaced 900 windows in this division. See JHA May 8, 2006 Status Report, pg. 59. JHA's concerns regarding lighting continue to be addressed. To date, 90% of the catwalks in the living units have received new security light fixtures. Moreover, as previously discussed, DFM hopes to expand the BTI into this division in the very near future.

A project is underway to cover air vents throughout the division. The vents have become the target of detainees who discovered that the vents could be used to make shanks.

### **DIVISION X**

As reported by JHA, most routine maintenance needs have been handled promptly and effectively. JHA April 9, 2007 Status Report, pg. 69. JHA is critical of floors in the Division that suffer from chipped and peeling paint. Id. at 69-70. DFM continues to address this concern and, as stated in prior responses, attributes the cause of the problem to power washing performed by detainee workers.

### **DIVISION XI**

JHA reports that most sanitation and mechanical maintenance issues have

been satisfactorily addressed during this reporting period. JHA April 9, 2007 Status Report, pg. 70. JHA's report that tradesman have been unable to make significant headway in maintaining light fixtures is being examined by DFM administrators who note a work-order completion rate of over 80% in this division.

#### **PRE-RELEASE CENTER (CCDSCI)**

JHA notes a recent water leak in the chapel/multi-purpose room. JHA April 9, 2007 Status Report, pg. 70. DFM reports that the leak was repaired and the damaged areas have already been patched and painted.

#### **GENERAL MAINTENANCE AND CAPITAL PROJECTS**

As repeatedly noted in previous Status Reports, ironically the class members themselves continue to cause constant and significant damage to CCDOC facilities. Detainee vandalism results not only in the direct damage to the CCDOC infrastructure, but also has a ripple-effect by causing valuable resources to be diverted from maintenance needs that arise from normal wear and tear. DFM continues to perform significant repairs and improvements to the CCDOC infrastructure.

Some additional projects and issues that are being tackled by OCPP and DFM are as follows:

- An elevator renovation project is scheduled for Division IX and the South Campus facility.



- A \$3 million project to upgrade the Fire and Life Safety systems in Divisions IX and X is underway.
- A multi-million dollar project to repair and maintain the exteriors of Divisions II, VII, XI, and the South Campus has been approved.
- A major \$5 million project to retrofit the entire Division XI security system is underway. This extensive project will renovate and upgrade nearly every facet of the division's security system and will include building automation, locks, fire and security alarms, video systems and elevators.
- A \$15.75 million project to install a state-of-the-art fiber optic infrastructure to support telecommunications and connectivity throughout the entire CCDOC complex is scheduled to start early Fall 2007.
- A \$7.1 million project to enhance security at points of entry to Divisions II, IV and VI has been approved.
- A \$3.15 million project to upgrade cell, interlock and exit door security systems in each living unit in Divisions III and IV has been completed.

DFM administrators look forward to collaborating with CCDOC administrators in identifying maintenance priorities in the coming year and encourage CCDOC personnel to consistently provide them with closed-cell reports. DFM understands the importance of keeping all possible bedspace available for detainee use.

As demonstrated by their continued efforts, DFM administrators are not content to rest on their laurels. New projects such as BTI and TRI aim to, at all times, provide CCDOC with as many beds as possible to reduce overcrowding. DFM acknowledges JHA's report, that as of March 31, 2007, approximately 96% of the beds at CCDOC were available for detainee use. JHA April 9, 2007 Status Report, pg. 14, Table 1.4. DFM intends to improve on that figure during the current reporting period and hopes to have at least 98% of the potential bedspace available at all times.

### **CERMAK HEALTH SERVICES**

While the provision of health care at CCDOC is not addressed by the Decree, the County Defendants are compelled to address numerous inaccurate statements and hyperbole made by JHA in their status report regarding the delivery of health care by Cermak Health Services ("CHS"). In its latest report, JHA has departed from a long history of fair and accurate reporting. CHS administrators encourage JHA to research and correct these inaccuracies.

JHA reports that one-half of the full-time physician positions at CHS were eliminated. JHA is incorrect. In reality, only four physician positions were eliminated. CHS currently employs fifteen full-time physicians. Notably, the majority of positions eliminated were those of administrators who provided limited direct patient care. Staff reductions were aimed at reducing administrative operating costs while maintaining a high level of medical care for detainees at

CCDOC.

In response to a fiscal crisis, the Cook County Bureau of Health Services, which is responsible for operating CHS, determined that the essential functions of four CHS medical administrators could be consolidated and performed by one individual, and that individual was put in place promptly upon the termination of the employment of those four medical administrators.

JHA's observations regarding the accreditation of Cermak Health Services by the National Commission on Correctional Health Care (NCCHC) are grossly inaccurate. JHA proceeds to draw several conclusions that are apparently based on speculation and conjecture, as opposed to facts.

CHS has been fully accredited by the National Commission on Correctional Health Care ("NCCHC"). NCCHC is a private, nongovernmental association, which grants public recognition to detention and correctional institutions that meet nationally established and accepted standards for the provision of health services. NCCHC has consistently found that CHS meets these standards.

Importantly, accreditation was not revoked by NCCHC. On their own volition, Cermak administrators, after collaboration with the Chief of the Cook County Bureau of Health, decided to withdraw Cermak's application for accreditation. Accordingly, accreditation was not "lost," rather, accreditation was not sought from NCCHC. The accreditation process is rigorous and requires extensive resources and

time commitments for compliance with the review by NCCHC. In view of the recent restructuring of the CHS, it would have been impractical to seek accreditation this year while in the midst of a reorganization. Cermak administrators expect to reapply for, and receive, accreditation from NCCHC in 2008.

NCCHC is not the only agency that grants accreditation to correctional facility health care providers. CHS has recently received accreditation from the American Correctional Association (“ACA”). ACA is the oldest and largest international correctional association in the world. CHS is not only fully accredited by ACA, CHS received a perfect score of 100% from ACA. ACA accreditation demonstrates that CHS provides a high standard of care to CCDOC detainees and further demonstrates that JHA concerns regarding CHS are unjustified.

Consequently, since accreditation was not lost, JHA’s conclusion that, “[t]he failure to maintain accreditation doubtlessly corresponds to the increase in inmate grievances regarding health services...”, is baseless. JHA April 9, 2007 Status Report, pg. 96. The increase in detainee grievances is discussed more fully below.

Clarification of several JHA statements regarding the elimination or reduction of certain services is necessary. Screening for sexually transmitted diseases has not been discontinued, rather, universal screening has been replaced by treatment of those detainees who appear symptomatic and testing for those who make a request to be tested. Similarly, CHS regularly provides Pap screening for

female detainees who are pregnant, or are symptomatic.

Contrary to JHA's assertion, dental services have not been eliminated. Id. CHS employs a full-time dentist and two dental technicians. The addition of a second dentist is scheduled for later this year. JHA correctly observes that some on-site medical services have been eliminated. For example, CHS previously provided a pulmonology clinic that was significantly underutilized and proved to be a waste of resources. Access to specialty care for detainees continues to be available at Stroger Hospital and the Fantus Clinic.

JHA warns of a proposal to eliminate long-term care of disabled individuals at Oak Forest Hospital of Cook County. JHA April 9, 2007 Status Report, pg. 97. CHS administrators are aware of no CCDOC detainees who are long-term care patients at Oak Forest Hospital. Indeed, CCDOC is a pre-trial detention facility and the long-term care of detainees is simply not an issue. Oak Forest Hospital does provide care for detainees who are suffering from a terminal illness and are near death. These individuals should not be confused with traditional long-term care patients, some of whom have been residents of Oak Forest Hospital for decades. CHS administrators are aware of no plans that would affect the care of terminally ill detainees.

JHA's attempt to link an increase in medical related grievances to alleged reductions in health services lacks evidentiary support. CHS administrators cite a change in procedure as the most likely cause of an increase in medical grievances.

Previously, some requests and complaints regarding medical care were submitted as “health care requests”, while other requests and complaints were submitted as “grievances.” Now, all requests and complaints regarding health care are submitted on grievance forms. As a result, all grievances are channeled through the CHS Director of Continuous Quality Improvement and tracked via computer. Health Care Request forms, on the other hand, were not tracked.

CHS administrators submit that while this may result in an appearance of increased complaints over the delivery of medical care, the policy change was designed to increase responsiveness to detainee requests for health care and is evidence of improving, rather than declining medical services.

### **CONCLUSION**

President Todd H. Stroger and the Board of Commissioners of Cook County are committed to providing constitutionally sound conditions of confinement for detainees at the CCDOC. The County has constantly improved facilities and has provided Sheriff Thomas Dart the resources to effectively run the CCDOC.

The AU Study is now paying dividends after the implementation of its recommendations and the resulting decrease in detainee length of stay. A major criticism of the John Howard Association has been addressed with the allocation of \$38 million for a new Residential Treatment Unit and a new Intake facility.

Although some budget cuts were imposed on Cermak Health Services, those

cuts were aimed at reducing the number of administrators, as opposed to clinicians, while maintaining a high level of care for detainees. Cermak Health Services continues to be an accredited health care provider.

President Stroger and the Board of Commissioners continue to move forward during perilous fiscal times while still meeting their obligations under the Consent Decree and the United States Constitution.

Respectfully submitted,

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